

The Honorable Ronald B. Leighton



07-CV-05706-ORD

FILED	LODGED
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MAR 25 2009	
CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

RICHARD KINGSBERRY, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

CHICAGO TITLE INSURANCE COMPANY,

Defendant.

NO. C07-5706 RBL

JOINT MOTION TO AMEND
SCHEDULING ORDER

Noted on Motion Calendar:
March 19, 2009

Plaintiff Richard Kingsberry ("Plaintiff") and Defendant Chicago Title Insurance Company ("Chicago Title") respectfully move this Court to amend the scheduling order. In support of this Motion, the parties state as follows:

PROCEDURAL BACKGROUND

1. On September 22, 2008, this Court entered a stipulated motion to extend Plaintiff's deadline for filing its motion for class certification until March 21, 2009 and stayed discovery pending the outcome of Chicago Title's Motion to Dismiss. The parties also stipulated in that order that they would revisit whether discovery should be bifurcated between class and merits discovery.

**JOINT PROPOSED PRETRIAL
SCHEDULING ORDER**

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STAFFORD FREY COOPER

PROFESSIONAL CORPORATION
601 Union Street, Suite 3100
Seattle WA 98101.1374
TEL 206.623.9900 FAX 206.624.6885

1 2. On October 10, 2008, this Court granted Chicago Title's Motion to Dismiss
2 Plaintiff's claim based on the Real Estate Settlement Procedures Act ("RESPA") and declined to
3 exercise jurisdiction over the remaining state law claims.

4 3. On October 13, 2008, Chicago Title filed a Motion to Amend the Judgment and
5 requested that the Court exercise federal jurisdiction over Plaintiff's state law claims because
6 Plaintiff's allegations gave rise to federal jurisdiction under the Class Action Fairness Act.

7 4. On October 16, 2008, Plaintiff moved for leave to amend the Complaint to add
8 claims for breach of implied contract and violation of the Washington Consumer Protection Act.

9 5. On November 12, 2008, this Court granted Chicago Title's Motion to Amend the
10 Judgment with respect to exercising jurisdiction over Plaintiff's state law claims and the Court
11 granted Plaintiff leave to amend the Complaint to include his additional state law claims.

12 Additionally, on November 12, 2008, this Court entered an Order Setting Trial and Pretrial
13 Dates.

14 6. Defendant filed its Answer to the Amended Complaint on November 26, 2008.

15 **MOTION TO EXTEND CLASS CERTIFICATION**
16 **BRIEFING, BIFURCATE DISCOVERY, AND EXTEND TRIAL DATES**

17 7. The parties are currently engaged in discovery and it is apparent that additional
18 time will be needed for class certification briefing and discovery. The parties also have agreed to
19 bifurcate discovery given the fact that Plaintiff brings this action on behalf of a putative multi-
20 state class.

21 8. The parties have stipulated that Plaintiff's deadline to move for class certification
22 will be July 24, 2009 and Defendant's deadline to file its opposition to class certification will be
23 on August 28, 2009. Plaintiff's reply brief will be due on or before September 25, 2009.

9. The parties have stipulated to bifurcate discovery between class and merits discovery.¹ Merits discovery will begin, if necessary, after a ruling on the class certification issue.

10. The parties also stipulated to extend the dates in the November 12, 2008 Order.

RELIEF REQUESTED

11. The parties respectfully request that the Court enter an Order extending the deadline for Plaintiff to file a Motion for Class Certification until July 24, 2009 and setting the deadline for Defendant's Opposition to Motion for Class Certification until August 28, 2009 and setting the deadline for Plaintiff to file a reply Brief until September 25, 2009.

12. The parties respectfully request that the Court enter an Order bifurcating discovery so that the class discovery deadline is July 24, 2009. Merits discovery will begin, if necessary, after a ruling on the class certification issue.

13. The parties respectfully request that the Court enter an Order extending the dates set forth in its November 12, 2008 Order Setting Trial and Pretrial Dates by one hundred and eighty (180) days.

Respectfully submitted this 19th day of March, 2009.

/s/ Clifford Cantor
Clifford Cantor (WSBA #17893)
LAW OFFICES OF CLIFFORD A.
CANTOR, P.C.
627 208th Avenue SE
Sammamish, WA 98074
Tel: (425) 868-7813
Fax: (425) 868-7870
One of the Attorneys for Plaintiff

/s/ James R. Lynch
Anne M. Bremner (WSBA # 13269)
Ted Buck (WSBA # 22029)
James R. Lynch (WSBA # 39274)
STAFFORD FREY COOPER
602 Union Street, Suite 3100
Seattle, WA 98101-1374
206.623.9900 (tel.) / 206.624.6885 (fax)
One of the Attorneys for Defendant

1 Although the parties agree to bifurcation of discovery, they recognize that there will sometimes be overlap between class and merits discovery. The parties agree to work together cooperatively to address such situations.

**JOINT PROPOSED PRETRIAL
SCHEDULING ORDER**

STAFFORD FREY COOPER

PROFESSIONAL CORPORATION
601 Union Street, Suite 3100
Seattle WA 98101.1374
TEL 206.623.9900 FAX 206.624.6885

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3 **AGREED ORDER**

4 IT IS SO ORDERED.

5 Dated this 25th of March, 2009.

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7 **RONALD B. LEIGHTON**
8 **UNITED STATES DISTRICT JUDGE**

9 Presented by:

10 **LAW OFFICES OF CLIFFORD A. CANTOR, P.C.**

11 By: /s/ Clifford A. Cantor, WSBA # 17893

12 -and-

13 **STAFFORD FREY COOPER**

14 By: /s/ James R. Lynch, WSBA # 39274

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23 **JOINT PROPOSED PRETRIAL
SCHEDULING ORDER**

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PROFESSIONAL CORPORATION
601 Union Street, Suite 3100
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